IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NOS.12326/2003
WITH SCA Nos.12440/2003, 12441/2003, 12518/2003,
12519/2003, and 12522/2003

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL YOGITABEN BABUBHAI

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

1. Special Civil Application No. 12326 of 2003

MR PS PATEL for Petitioner No. 1-7

MR AD OZA, GP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 27/08/2003

COMMON ORAL ORDER

1. Leave to delete petitioner nos.4 and 5 in Special Civil Application No.12326/2003 with liberty to

petitioner no.4 and 5 to challenge the action in accordance with law by separate petition. Accordingly the SCA No.12326/2003 shall remain for petitioners no.1, 2, 6 and 7 only.

2. Rule. Mr. A.D. Oza, learned GP appears for respondents no.1 and 2 and waives service of rule. With the consent of the respective parties, the matters are taken up for final hearing today.

3. Having heard the learned counsel appearing for the parties, it appears that there is no dispute on the point that the case of the present petitioners is covered by the decision of this Court dated 25.8.03 passed in SCA No.12235/03 (Zaranben vs State of Gujarat). Therefore no detailed discussions are required and in view of the reasons recorded in the said judgement, similar directions are required to be issued in this group of petitions also.

4. In view of the above, following directions are required to be issued:

(A) All those petitioners who have applied prior to 13th July, 2003 and if their cases are similarly situated then 15 marks shall not be deducted while preparing the merit list in view of the decision, dated 13.8.03. of this court in case of Zaranben(supra). However, the authorities shall not be required to comply with these directions in case the judgment of this court in case of Zaranben(supra) is stayed and/or modified and/or reversed by the higher forum known to law and in such circumstances it will be open for the State authorities to give effect accordingly.

(B) If any of the petitioners who have applied late in time, i.e. after 13th July, 2003 or if their applications otherwise are not to be considered eligible in view of other aspects would not be entitled to the benefit of direction No.(A) with a clarification that in the event of rejection of such applications by the authorities, it would be open to such petitioners to challenge the said action in accordance with law.

5. All these petitions are disposed of in terms of aforesaid directions. Rule in each petition is made absolute to the aforesaid extent. Considering the facts and circumstances, there shall be no costs. Direct service permitted.

[JAYANT PATEL, J.]

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